

Kasell Law Firm

February 6, 2026

Honorable Kiyo A. Matsumoto
United States District Judge
Eastern District of New York
Central Islip Courthouse
100 Federal Plaza
Central Islip, New York 11722

Re: *Main Street Merchant Services Inc. v. Heyburn, LLC et al.*,
25 Civ. 02904 (KAM) (ST)

Your Honor:

I write a joint letter in response to the Court's Order dated February 2, 2026, directing the parties to confer and advise how this matter should proceed.

Defendants' Position

Defendants Heyburn LLC and Peter M. Perrin advise the Court that they are willing to have judgment entered against them and are prepared to proceed accordingly including by filing an Offer of Judgment under Fed. R. Civ. P. 68

Defendants Little Tacoma Construction, LLC and Francis Street Investors, LLC, however, dispute that they ever entered into the contract at issue in this action. Those Defendants contend that, as a matter of law, they are not parties to the agreement sued upon and therefore cannot be held liable under it. Little Tacoma Construction, LLC and Francis Street Investors, LLC respectfully submit that this discrete threshold issue is appropriately resolved through Rule 12(c) motions for judgment on the pleadings, limited to whether they are parties to the contract as a matter of law.

In the alternative, and without prejudice to their legal position, Little Tacoma Construction, LLC and Francis Street Investors, LLC are amenable to participating in a focused mediation conference, either through the Court's ADR Department or before the assigned Magistrate Judge, limited to this single, discrete issue of non-party status. These defendants ask that it be done through video conferencing as they are located on the West Coast.

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Plaintiff's Position

Plaintiff believes that Little Tacoma Construction, LLC and Francis Street Investors, LLC were parties to the contract at issue in this action and should be liable thereunder. Plaintiff is amenable to enter into a consent judgment but will need to include all parties into the judgment.

Respectfully submitted,

/s/ David M. Kasell

David M. Kasell
Kasell Law Firm
Attorney for Defendants
Heyburn LLC, Peter M. Perrin,
Little Tacoma Construction, LLC, and
Francis Street Investors, LLC